

CAUSE NO. 12077CV

MOLLY SEXTON

PLAINTIFF,

VS.

WAL-MART STORES TEXAS LLC AND
WAL-MART REAL ESTATE BUSINESS
TRUST

DEFENDANTS.

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IN THE COUNTY COURT OF LAW

WALKER COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, MOLLY SEXTON, hereinafter referred to as "PLAINTIFF," complaining of WALMART STORES OF TEXAS LLC and WALMART REAL ESTATE BUSINESS TRUST, hereinafter referred to as "DEFENDANTS," and for cause of action would respectfully show the Court and Jury the following:

PLAINTIFF, MOLLY SEXTON, is an individual and a resident citizen of Walker County, Texas. Pursuant to Rule 30.014, *Texas Rules of Civil Procedure*, Plaintiff's partial identification information is XXXXX563 (last three numbers of driver's license number) and XXX-XX-X862 (last three numbers of social security number). Pursuant to Rule 30.015, *Texas Rules of Civil Procedure*, Plaintiff's current residence address is 185 Chessher Drive, Trinity, Texas 75862.

Defendant WAL-MART STORES TEXAS, LLC is a company, corporation or partnership doing business in the State of Texas for the purpose of accumulating monetary gains and may be served with process by serving its registered agent for service CT

PLAINTIFF'S ORIGINAL PETITION

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Corporation System, 1999 Bryan St. Ste. 900, Dallas, Texas 75201 or wherever he may be found.

Defendant **WAL-MART REAL ESTATE BUSINESS TRUST** is a company, corporation or partnership doing business in the State of Texas for the purpose of accumulating monetary gains and may be served with process by serving its registered agent for service CT Corporation, System, 1999 Bryan St. Ste. 900, Dallas, Texas 75201 or wherever he may be found.

II.

Venue is proper in Walker County, Texas, pursuant to § 15.002, *Civil Practice & Remedies Code*, in that the cause of action, or a part thereof, arose in Walker County.

III.

Pursuant to the provisions of Rule 190.1, *Texas Rules of Civil Procedure*, this suit is filed as a Level 2 suit, and the scope of discovery conducted in this cause shall be governed pursuant to the provisions of Rule 190.3, *Texas Rules of Civil Procedure*.

IV.

It has become necessary to bring this civil action to collect a legal debt and damages due and owing to **PLAINTIFF** by reason of an incident which occurred on or about December 23, 2013 in Walker County, Texas, where **PLAINTIFF**, was an invitee on **DEFENDANTS'** premises. Plaintiff slipped and fell due to water on the floor of the premises owned and or maintained by **DEFENDANTS**. The water was on the floor in the premises owned, operated and/or maintained by **DEFENDANTS** or its agents, officers, servants, and employees in a location and in such a manner as to constitute a dangerous

condition. As a direct and proximate result of the fall, **PLAINTIFF'S** body generally was injured.

Further, nothing your **PLAINTIFF** did or failed to do caused or contributed to cause the occurrence made the basis of this suit. To the contrary, the occurrence was proximately caused by the negligence, as that term is understood in law, of **DEFENDANTS**.

IV.

On the occasion in question, **DEFENDANTS** were negligent in the inspection and/or maintenance of the premises and of the floor and produce department on the premises in question. **DEFENDANTS** knew or should have known that the manner in which the premises was inspected and/or maintained did not adequately protect members of the public from injury. **PLAINTIFF** suffered her injuries as a direct and proximate result of the negligence of **DEFENDANTS**, in its operation and maintenance of the premises and the floor and produce department. **DEFENDANTS** were further negligent in failing to properly and adequately warn members of the public of the dangers inherent on the premises and in failing to properly and adequately supervise the usage of the premises in question. Each of such acts and omissions, singularly or in combination with others, constituted negligence which proximately caused serious and permanent injuries to **PLAINTIFF**.

V.

As a result of **DEFENDANTS'** negligence, **PLAINTIFF** has sustained much physical pain and mental anguish in the past, and will in all reasonable probability, continue to suffer the same in the future; she has sustained physical impairment in the past and will in all

reasonable probability, sustain the same in the future; they have sustained disfigurement in the past and will in all reasonable probability, sustain the same in the future. **PLAINTIFF**, as a result of her injuries, have suffered a loss of wage earning capacity in the past, and in all probability, will sustain a loss of wage earning capacity in the future. **PLAINTIFF** has sustained medical expenses in the past and will, in all reasonable probability, continue to sustain reasonable and necessary medical expenses in the future.

VI.

PLAINTIFF would additionally say and show that she is entitled to recovery of pre-judgment interest in accordance with law and equity as part of her damages herein and **PLAINTIFF** here and now sues specifically for recovery of pre-judgment interest from the date of the occurrence made the basis of this suit until the date of the judgment herein as provided by law and equity, under the applicable provisions of the laws of the State of Texas.

VII.

If it is the Defendant's contention that Plaintiff's medical bills are limited to those only paid and/or incurred by her or her insurance company, including Plaintiff's deductible and co-payments, then Plaintiff hereby seeks recovery for the premiums that she has paid for such insurance coverage since the Defendant has deprived her of the benefits of that insurance coverage without fair, due and just compensation. Additionally, Plaintiff would show that Tex. Civ. Prac. & Rem. Code § 41.0105 is an unconstitutional taking of Plaintiff's property and violates Plaintiff's due process rights under the Texas Constitution.

VIII.

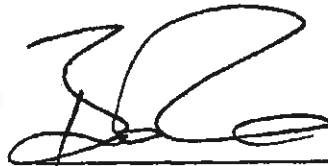
PLAINTIFF would show this Honorable Court and Jury that her damages at the time of filing this Petition are continuing, but clearly exceed \$10,000 and the minimum jurisdictional limits of this Court, and expressly reserves the right to amend this Petition concerning her damages in the future.

WHEREFORE, PREMISES CONSIDERED, **PLAINTIFF** prays that the **DEFENDANTS** be cited to appear and answer herein, and that upon final trial hereof

PLAINTIFF have judgment against the **DEFENDANTS** in a sum far in excess of the minimum jurisdictional limits of this Court, plus interest thereon at the legal rate, pre-judgment interest, costs of court expended in her behalf, and for such other and further relief, at law and in equity, both general and special, to which **PLAINTIFF** may show herself justly entitled.

Respectfully submitted,

LAW OFFICES OF BENNIE D. RUSH



Bennie D. Rush
State Bar No. 17400425
1300 11th Street, Suite 300
Huntsville, Texas 77340
936/291-7600 Telephone
936/295-3330 Facsimile
ATTORNEY FOR PLAINTIFF

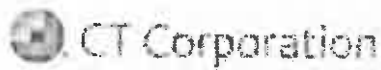
FILED FOR RECORD

At 3:30 o'clock P M

APR 27 2015

**KARI FRENCH, COUNTY CLERK
WALKER COUNTY, TEXAS**

by [Signature] Deputy



**Service of Process
Transmittal**

05/06/2015

CT Log Number 527073526

TO: Kim Lundy Service of Process, Legal Support Supervisor
Wal-Mart Stores, Inc.
702 SW 8th St MS 215
Bentonville, AR 72716-6209

RE: Process Served in Texas

FOR: Wal-Mart Real Estate Business Trust (Domestic State: DE)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION:	Molly Sexton, Pttf. vs. Wal-Mart Stores Texas LLC and Wal-Mart Real Estate Business Trust, Dfts.
DOCUMENT(S) SERVED:	Citation, Return, Original Petition
COURT/AGENCY:	Walker County - County Court of Law, TX Case # 12077CV
NATURE OF ACTION:	Personal Injury - Failure to Maintain Premises in a Safe Condition - 12/23/2013 - Walker County, Texas
ON WHOM PROCESS WAS SERVED:	C T Corporation System, Dallas, TX
DATE AND HOUR OF SERVICE:	By Certified Mail on 05/06/2015 postmarked on 04/30/2015
JURISDICTION SERVED :	Texas
APPEARANCE OR ANSWER DUE:	By 10:00 a.m. on the Monday next following the expiration of 20 days after service
ATTORNEY(S) / SENDER(S):	Bennie D. Rush Law Offices of Bennie D. Rush 1300 11th Street Suite 300 Huntsville, TX 77340 936-291-7600
ACTION ITEMS:	CT has retained the current log, Retain Date: 05/06/2015, Expected Purge Date: 05/11/2015 Image SOP Email Notification, Kim Lundy Service of Process ctlawsuits@walmartlegal.com
SIGNED:	C T Corporation System
ADDRESS:	1999 Bryan Street Suite 900 Dallas, TX 75201
TELEPHONE:	214-932-3601



LAW OFFICES OF BENNIE D. RUSH, PC
A PROFESSIONAL CORPORATION

1300 11th Street, Suite 300
Huntsville, Texas 77340

CERTIFIED MAIL



7104 9940 7320 0000 3571

PS Form 3800, 8/2002



PITNEY BOWES

\$ 006.690

02 1P

0001883188 APR 30 2015

MAILED FROM ZIP CODE 77340

WALMART REAL ESTATE BUSINESS TRUST
C/O REGISTERED AGENT
CT CORPORATION SYSTEM
1999 BRYAN STREET, SUITE 900
DALLAS TX 75201



7520133140 0005



CLERK OF THE COURT	ATTORNEY FOR PLAINTIFF
Kari A. French County Clerk 1100 University Ave, Suite 201 Huntsville, Texas 77340 (936) 436-4922	Bennie D. Rush 1300 11th Street, Suite 300 Huntsville, Texas 77340 (936) 295-0700

CAUSE NO. 12077CV

**THE STATE OF TEXAS
CITATION FOR PERSONAL SERVICE**

NOTICE TO DEFENDANT: "You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by Ten O'clock (10:00) A.M. on the Monday next following the expiration of twenty (20) days after you were served this citation and petition, a default judgment may be taken against you."

**TO: WAL-MART REAL ESTATE BUSINESS TRUST - DEFENDANT
c/o ITS REGISTERED AGENT CT CORPORATION SYSTEM
1999 BRYAN STREET, SUITE 900, DALLAS, TEXAS 75201
OR WHEREVER IT CAN BE FOUND**

GREETINGS: You are hereby commanded to appear before the **COUNTY COURT AT LAW** of Walker County, Texas, to be held at the Courthouse of said County in the City of Huntsville, County, Texas, by filing a written answer to **PLAINTIFF'S ORIGINAL PETITION** at or before Ten o'clock (10:00) A.M. on the Monday next after the expiration of twenty (20) days after the date of service hereof, a copy of **PLAINTIFF'S ORIGINAL PETITION** which accompanies this citation in Cause Number **12077CV**, filed on the docket of said Court on this date: **April 27, 2015**, and styled:

**MOLLY SEXTON, Plaintiff
VS.**

**WAL-MART STORES TEXAS LLC AND WAL-MART REAL ESTATE BUSINESS TRUST,
Defendants**

The officer executing this writ shall serve the same according to the requirements of law, and the mandates thereof, and make due return as the law directs.

Issued and given under my hand and seal of said Court at Huntsville, Texas, this date: **April 28, 2015**.

**ATTEST: KARI A. FRENCH,
COUNTY CLERK
WALKER COUNTY, TEXAS**

By: Kathleen Cook, Deputy
Kathleen Cook

CAUSE NO. 12077CV

SERVICE OF CITATION RETURN

Came to hand on the _____ day of _____, 201____, at _____ o'clock ____M. and, executed at _____, _____ County, Texas, on the _____ day of _____, 201____ at _____ o'clock ____M., by delivering to the within-named Defendant, **WAL-MART REAL ESTATE BUSINESS TRUST c/o ITS REGISTERED AGENT CT CORPORATION SYSTEM**, in person, a true copy of this Citation, together with the accompanying copy of PLAINTIFF'S ORIGINAL PETITION, having first attached such copy of such PLAINTIFF'S ORIGINAL PETITION to such copy of citation and endorsed on such copy of citation the date of delivery.

Not executed as to the within-named Defendant, **WAL-MART REAL ESTATE BUSINESS TRUST c/o ITS REGISTERED AGENT CT CORPORATION SYSTEM**.

Due diligence used by _____ officer or authorized person: _____ and the cause of failure to execute this process is: _____ and the information received as to the whereabouts of the said Defendant(s) being: _____

To certify which witness my hand officially.

FEES -

Serving \$ _____

Copy(ies): \$ _____

TOTAL: \$ _____

CONSTABLE/PROCESS SERVER_____
County, TexasBY: _____
Deputy/Process Server